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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,596	06/15/2001	Ursula Murschall	00/149-2 MFE	8301

7590 09/10/2003  
PROPAT LLC  
2912 CROSBY ROAD  
CHARLOTTE, NC 28211

EXAMINER

SZEKELY, PETER A

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/882,596	<b>Applicant(s)</b> MURSCHALL ET AL.	
	<b>Examiner</b> Peter Szekely	<b>Art Unit</b> 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-22 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no mention of "g/mol" in the specification.

### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-4, 7-9, 11-13, 16 and 20 are rejected under 35 U.S.C. 102(b or e) as being anticipated by Sommer et al. 5,457,018, Mortlock et al. 5,562,984, Hunter et al. 5,763,538, Carlson et al. 5,867,316 or Tojo et al. 6,503,599.
5. Sommer et al disclose a biaxially stretched polyester film in column 1, line 7, heat setting in column 5, lines 42-47, UVB stabilizers in column 10, lines 60-65, hindered phenols in column 11, lines 37-46 and PET in claim 5. Mortlock et al. teach biaxially drawn and heat set polyester film in column 2, lines 16-35, hindered phenols and their concentrations in column 2, lines 36-62 and PET in claim 9. Hunter et al. recite biaxial orientation and annealing in column 4, lines 29-38, carmodiimides, among them

Art Unit: 1714

Stabaxol P, I and P100 in the paragraph overlapping columns 5 and 6, stretching in two directions and heat setting in Example 15, carmodiimide concentrations in claim 1 and PET in claim 2. Carlson et al. reveal biaxial orientation in column 11, line 37 and column 17, lines 51-54, hindered phenols and UV stabilizers in column 18, lines 15-57 heat setting in column 23, lines 9-19 and PET in claim 59. Tojo et al. divulge biaxially oriented polyester film in the Abstract, shrinkage rates in column 2, lines 12-33. hindered phenols in column 3, lines 1-2, heat set in column 6, lines 38-41, coating in column 10, lines 2-43 and PET in claim 6. Applicants' claims are not novel.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeNicola, Jr. et al. 6,218,023, in view of Murschall et al. 5,302,427, Peiffer et al. 5,468,527, Dries et al. 5,529,843 or Schuhman et al. 5,554,245.
8. DeNicola, Jr. et al. display applicants' masterbatch in column 15, lines 10-40, coextrusion in Example 5. The process of claim 22 is shown in column 2 of Murschall et al., in column 6 of Peiffer et al., from column 8, line 47, to column 9, line 42 in Dries et al. and in column 5 of Schuhmann et al. It would have been obvious to add the additive masterbatch of DeNicola Jr. et al. during the process of the secondary references, in order to assure the improved dispersion of the additives.
9. Claims 1-9 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Somner et al. 5,457,018, Mortlock et al. 5,56,984, Hunter et al. 5,763,538, Carlson

Art Unit: 1714

et al. 5,867,316 or Tojo et al. 6,503,599, in view of Rashbrook 4,203,888, Murakami et al. 4,264,667, Matsumura et al. 4,517,315, Brozek et al. 5,138,024, Suzuki et al. 5,262,460, Anderson, II 5,324,467, Bland et al. 5,427,842, Rogers et al. 5,804,626, Wakayabashi et al. 6,355,336, Hebrink et al. 6,569,515, Johnson et al. 6,613,819 or Nissinbo Industries, Inc. EP 0 803 538.

10. The primary references have been discussed already in paragraph #5 of the instant action. Murakami et al., Matsumura et al., Brozek et al., Anderson, II, Bland et al., Rogers et al., Wakayabashi et al. and Nissinbo Industries have been discussed previously in paragraph #12 of the first Office action. All of them refer to polyesters. Rashbrook display 5-20% organic diphosphate flame retardant in a polyester film in column 1, lines 30-40, biaxially drawn film and heat setting in column 2, lines 15-26 and PET in claim 6. Suzuki et al. relate phosphite antioxidants and their concentration, conventional antioxidant and flame retardants from column 18, line 37, to column 19, line 33, biaxially oriented heat treated polyester film in Example 13 and PET in claim 5. Hebrink et al. describe biaxially oriented film in column 3, lines 33-36 and column 7, lines 4-10, flame retardants and UV stabilizers in column 8, line 29, examples of flame retardants in column 9, line 49-54, examples of UV stabilizers in column 11, lines 30-43, heat setting in Examples 8-10 and PET and PBT in column 6, lines 21-37. Johnson et al. discuss heat setting and biaxial orientation in column 4, lines 1-40, UV absorbers and their concentrations in column 5, lines 4-18 and PET in claim 13. It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add the ingredients of the secondary references to the compositions of

Art Unit: 1714

the primary references, because their addition to biaxially drawn, heat set PET is customary and well known, as proven by the multitude of examples presented herein.

***Allowable Subject Matter***

11. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

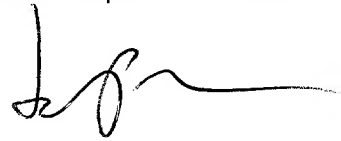
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (703) 308-2460. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

Art Unit: 1714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'Peter Szekely', with a long horizontal flourish extending to the right.

Peter Szekely  
Primary Examiner  
Art Unit 1714

P.S.  
9/9/2003